



**COMMISSIONER'S DIRECTIVE #54**

**SEPTEMBER 2015**

**(Replaces Bulletin #54 dated November 2014)**

**Effective Date: Upon Publication**

**SUBJECT:** Indiana Tax Exemption Relating to the National Collegiate Athletic Association and Its Affiliates

**REFERENCES:** IC 6-2.5; IC 6-3; IC 6-6-1.1; IC 6-6-2.5; IC 6-6-9; IC 6-6-9.7; IC 6-8-12; IC 6-9; IC 6-9-13

**DISCLAIMER:** Commissioner's directives are intended to provide nontechnical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules, and court decisions. Any information that is not consistent with the law, regulations, or court decisions is not binding on either the department or the taxpayer. Therefore, the information provided herein should serve only as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein.

**SUMMARY:**

This directive provides guidance to the NCAA and retail merchants concerning tax exemptions granted to the NCAA and its affiliates during a Final Four Event that takes place in Indiana.

**I. INTRODUCTION**

IC 6-8-12-3 provides that all property owned by the National Collegiate Athletic Association (NCAA) and its Affiliates (as defined below) in connection with a Final Four Event (as defined below) in Indiana, their revenues, their expenditures, and their transactions in connection with a Final Four Event in Indiana, resulting from holding such Final Four Event in Indiana, or resulting from making preparatory advance visits to Indiana for such Final Four Event are exempt from taxation in Indiana for all purposes.

## II. DEFINITIONS

**Affiliate** means:

- Collegiate Sports, LLC
- NIT, LLC
- College Football Officiating, LLC
- Indiana Host Committee, LLC
- Men's College Basketball Officiating, LLC
- WCBO, LLC a/k/a Women's College Basketball Officiating, LLC
- The Arbiter, LLC
- eOfficials, LLC
- Collegiate Properties, LLC
- RefPay, LLC

**Master Account** means an account established by a retail merchant for the NCAA or its Affiliates that permits authorized employees or agents of the NCAA or its Affiliates to purchase tangible personal property or services on behalf of the NCAA or its Affiliates and for which payment of any charges made to such account is the responsibility and legal obligation of the NCAA or its Affiliates.

**NCAA** means the National Collegiate Athletic Association, a not-for-profit association organized under Section 501(c)(3) of the Internal Revenue Code.

**Final Four Event** means an event known as the Men's Final Four or the Women's Final Four that is conducted in connection with the NCAA Division I Men's Basketball Championship or the NCAA Division I Women's Basketball Championship and all ancillary events associated therewith.

## III. SALES AND USE TAX ON PURCHASES BY THE NCAA AND AN AFFILIATE

Purchases of tangible personal property or taxable services made directly by the NCAA or any of its Affiliates in connection with the Final Four Event in Indiana, resulting from holding a Final Four Event in Indiana or resulting from making preparatory advance visits to Indiana for a Final Four Event, are exempt from sales and use tax (IC 6-2.5).

To qualify for the exemption, the purchase of tangible personal property or taxable service from a retail merchant must be made directly by the NCAA or its Affiliates.

**NOTE:** If an employee of the NCAA or an Affiliate purchases an item on behalf of the NCAA or an Affiliate, even if the employee is to be reimbursed by the NCAA or an Affiliate, the purchase is not exempt and the employee must pay sales tax at the time of purchase.

To purchase property or services from a retail merchant exempt from sales and use tax, innkeepers' tax if applicable, and food and beverage tax if applicable, the NCAA or an Affiliate must open a master account with that retail merchant that includes a list of those employees of

the NCAA or the Affiliate authorized to make charges to such master account, provide such master account information to the department, and submit an exemption certificate (Form ST-105 or SSTGB Form F0003) to the retail merchant. To recover taxes paid on exempt purchases, including the purchase of gasoline or special fuel through a metered pump, the NCAA or an Affiliate must file a properly supported claim for refund with the department.

**EXAMPLE:**

An employee of the NCAA pays for lodging costs with the employee's own funds. Tax should be collected at the time of payment because payment is not being made directly by the NCAA. However, if an authorized employee charges the lodging to the NCAA master account at the hotel, which is properly established by the NCAA or its Affiliate, then this is a direct expenditure by the NCAA and the transaction is exempt from sales tax.

**EXAMPLE:**

An employee of an Affiliate hosts a dinner for several employees and charges the dinner on a corporate credit card in the name of the Affiliate. The purchase is not an exempt purchase because the purchase was not charged to a master account. The Affiliate may file a properly supported claim for refund with the department.

#### **IV. SALES AND USE TAX ON SALES BY THE NCAA OR AN AFFILIATE**

Sales by the NCAA and its Affiliates in connection with the Final Four Event in Indiana, resulting from holding a Final Four Event in Indiana or resulting from making preparatory advance visits to Indiana for a Final Four Event, are exempt from sales and use tax (IC 6-2.5).

To claim the foregoing exemption from any sales tax, the NCAA or an Affiliate shall file with the department monthly sales tax returns (Forms ST-103) on or before the due date for filing sales tax returns, as may be extended, for any month in which it has exempt or nonexempt sales and shall report such sales. The NCAA or an Affiliate shall not be required to register with the department to claim the exemption, but it will be required to register with the department and file sales tax returns to the extent it has gross receipts subject to tax.

#### **V. REFUND OF EXCISE TAXES ON PURCHASES BY THE NCAA OR AN AFFILIATE**

Purchases and sales by the NCAA and its Affiliates in connection with the Final Four Event in Indiana, resulting from holding a Final Four Event in Indiana or resulting from making preparatory advance visits to Indiana for a Final Four Event, are exempt from state and county excise taxes, including, without limitation, the gasoline or motor fuel tax (IC 6-6-1.1), special fuel tax (IC 6-6-2.5), auto rental excise tax (IC 6-6-9), county auto rental excise tax (IC 6-6-9.7), county food and beverage tax (IC 6-9), innkeeper's tax (IC 6-9), and county admissions tax (IC 6-9-13 and IC 6-9-28) to the extent that such purchases and sales are exempt from sales and use tax (IC 6-2.5).

If excise taxes have been paid on exempt purchases, including the purchase of gasoline or special fuel through a metered pump, the NCAA or an Affiliate must file a properly supported claim for refund with the department.

## **VI. INCOME TAX ON INCOME OF THE NCAA OR AN AFFILIATE RELATING TO A FINAL FOUR EVENT**

Income of the NCAA and its Affiliates derived from a Final Four Event in Indiana, from holding a Final Four Event in Indiana, or from making preparatory advance visits to Indiana for a Final Four Event are exempt from adjusted gross income tax (IC 6-3).

To claim the foregoing exemption from any income tax on the foregoing income received in a taxable year, the NCAA or an Affiliate shall submit a report detailing its exempt income to the department on or before the due date for filing income tax returns for such taxable year, as may be extended. The NCAA or an Affiliate also shall include the foregoing report to the department as an enclosure with its income tax return, but only if it is required to file an income tax return. The NCAA or an Affiliate is required to file income tax returns to the extent it has nonexempt income or is otherwise required to do so by Indiana law. The NCAA or an Affiliate shall exclude any exempt income from any income, receipts, or expenses reported on such return and shall exclude any exempt receipts from the numerator and denominator of its apportionment factor on its income tax return.

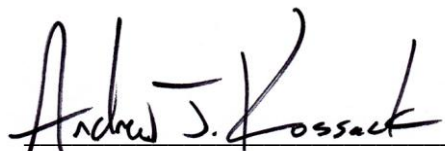
## **VII. WITHHOLDING TAX ON SALARIES AND WAGES OF EMPLOYEES OF THE NCAA OR AN AFFILIATE RELATING TO A FINAL FOUR EVENT**

Except as provided below, the NCAA and its Affiliates are exempt from withholding tax (IC 6-3-2-2.7 and IC 6-3-4-1) on the wages and salaries of their employees paid in connection with services rendered at a Final Four Event in Indiana, with respect to holding a Final Four Event in Indiana or with respect to making preparatory advance visits to Indiana for a Final Four Event.

Notwithstanding the foregoing, the NCAA and its Affiliates are not exempt from withholding tax on the salaries and wages paid to their employees who are residents of Indiana regardless of whether the salaries and wages are paid to such Indiana residents in connection with services rendered at a Final Four Event in Indiana, with respect to holding a Final Four Event in Indiana, or with respect to making preparatory advance visits to Indiana for a Final Four Event.

### **EXAMPLE:**

An office employee who works full time for the NCAA at its headquarters in Indianapolis is required to staff a visitor center booth during the week before the NCAA Final Four Event basketball games begin. The wages paid to the employee are not exempt from the Indiana adjusted gross income tax because the employee is a resident of Indiana and regularly works for the NCAA.

  
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Andrew Kossack  
Commissioner